

SENATE BILL No. 44

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-2.

Synopsis: Firearms licenses and foreign nationals. Requires a person who is not a United States citizen and desires to obtain a handgun or retail handgun dealer's license to submit additional information to the appropriate law enforcement agency including: (1) proof that the person is lawfully present in the United States; (2) information from the foreign country in which the person is a citizen concerning the person's criminal history; and (3) other relevant information.

Effective: July 1, 2002.

Alting

November 20, 2001, read first time and referred to Committee on Public Policy.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 44

A BILL FOR AN ACT to amend the Indiana Code concerning firearms.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-2-3, AS AMENDED BY P.L.120-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]: Sec. 3. (a) A person desiring a license to carry a
4 handgun shall apply:

5 (1) to the chief of police or corresponding law enforcement officer
6 of the municipality in which the applicant resides;

7 (2) if that municipality has no such officer, or if the applicant does
8 not reside in a municipality, to the sheriff of the county in which
9 the applicant resides after the applicant has obtained an
10 application form prescribed by the superintendent; or

11 (3) if the applicant is a resident of another state and has a regular
12 place of business or employment in Indiana, to the sheriff of the
13 county in which the applicant has a regular place of business or
14 employment.

15 (b) The law enforcement agency which accepts an application for a
16 handgun license shall collect a ten dollar (\$10) application fee, five
17 dollars (\$5) of which shall be refunded if the license is not issued.



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Except as provided in subsection (h), the fee shall be:

- (1) deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund; and
- (2) used by the agency for the purpose of:
 - (A) training law enforcement officers in the proper use of firearms or other law enforcement duties; or
 - (B) purchasing for the law enforcement officers employed by the law enforcement agency firearms, or firearm related equipment, or both.

The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain **the following:**

- (1) The applicant's name, full address, **and** length of residence in the community.
- (2) Whether the applicant's residence is located within the limits of any city or town.
- (3) The applicant's occupation, place of business, or employment.
- (4) **The applicant's** criminal record, if any, and convictions (minor traffic offenses excepted).
- (5) **The applicant's** age, race, sex, nationality, **and** date of birth.
- (6) **The applicant's** citizenship. **If the applicant is not a citizen of the United States:**
 - (A) **the applicant must submit the information described in section 16.3 of this chapter to the officer;**
 - (B) **the officer shall use the information to determine:**
 - (i) **the applicant's character and reputation; and**
 - (ii) **if the applicant is a proper person; and**
 - (C) **the law enforcement agency that accepted the application and the superintendent may charge the applicant a fee:**
 - (i) **in addition to the fee required under subsection (b); and**
 - (ii) **to offset any costs incurred by the law enforcement agency and superintendent to obtain, investigate, or verify information submitted under this subdivision and section 16.3 of this chapter.**
- (7) **The applicant's** height, weight, build, color of hair, color of eyes, **and** scars and marks.
- (8) Whether the applicant has previously held an Indiana license to carry a handgun and, if so:
 - (A) **the serial number of the license and year issued; and**



(B) whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation. ~~and~~

(9) The applicant's reason for desiring a license.

The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify ~~thereby~~ the applicant's character and reputation. ~~and The officer shall in addition~~ verify for accuracy the information contained in the application and ~~shall~~ forward this information, together with ~~his~~ the officer's recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant, to the superintendent.

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant has a proper reason for carrying a handgun and is of good character and reputation and a proper person to be so licensed, the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and



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(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

- (1) has been convicted of a felony;
- (2) is under eighteen (18) years of age;
- (3) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or
- (4) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision (4), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

- (1) changes the person's name; or
- (2) changes the person's address;

the person shall, not later than sixty (60) days after the date of the change, notify the superintendent, in writing, of the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

SECTION 2. IC 35-47-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) A person desiring a retail handgun dealer's license shall apply to the sheriff of the county in which ~~he the person~~ resides, or, if ~~he the person~~ is a resident of another state and has a regular place of business in Indiana, ~~then~~ to the sheriff of the county in which ~~he the person~~ has a regular place of

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business. The applicant ~~shall state his~~ **must provide the following information to the appropriate sheriff:**

- (1) **The applicant's name and full address.**
- (2) **The applicant's occupation.**
- (3) **The applicant's sex, race, age, place of birth, date of birth, and nationality.**
- (4) **The applicant's height, weight, build, color of eyes, color of hair, complexion, and scars and marks. and any**
- (5) **The applicant's criminal record, if any (minor traffic offenses excepted).**
- (6) **Proof of the applicant's citizenship. If the applicant is not a citizen of the United States:**
 - (A) **the applicant must submit the information described in section 16.3 of this chapter to the sheriff;**
 - (B) **the sheriff shall use the information to determine:**
 - (i) **the applicant's character and reputation; and**
 - (ii) **if the applicant is a proper person; and**
 - (C) **the sheriff that accepted the application and the superintendent may charge the applicant a fee:**
 - (i) **in addition to the fee required under subsection (b); and**
 - (ii) **to offset any costs incurred by the sheriff and superintendent to obtain, investigate, or verify information submitted under this subdivision and section 16.3 of this chapter.**

The officer to whom the application is made shall verify the application and search ~~his~~ **the officer's** records concerning the applicant's character and reputation.

(b) The officer to whom the application is made shall send to the superintendent:

- (1) the verified application;
- (2) the results of the officer's investigation; and
- (3) the officer's recommendation for approval or disapproval of the application;

in as many copies as the superintendent shall designate, and one (1) set of legible and classifiable fingerprints of the applicant. The superintendent may make whatever further investigation ~~he~~ **the superintendent** deems necessary. Whenever disapproval is recommended by the officer to whom the application was made, ~~he~~ **the officer** shall provide the superintendent and the applicant with ~~his~~ **the officer's** complete reasons for the disapproval in writing. If the officer to whom the application is made recommends approval, ~~he~~ **the officer**

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shall instruct the applicant in the proper method of taking legible and classifiable fingerprints. If it appears to the superintendent that the applicant is of good character and reputation and a proper person to be licensed, ~~he~~ **the superintendent** shall issue to the applicant a retail handgun dealer's license which shall be valid for a period of two (2) years from the date of issue. The fee for the license shall be twenty dollars (\$20), which shall be deposited with the officer to whom the application is made, who shall in turn forward it to the superintendent for deposit with the treasurer of state when the application is approved by the superintendent. In the event that the application is disapproved by the superintendent, the fee shall be returned to the applicant along with the complete reasons, in writing, for the disapproval.

(c) ~~No~~ **A retail dealer's license shall may not** be issued to any person who has been:

- (1) convicted of a felony; or
- (2) adjudicated a delinquent child for an act that would be a felony if committed by an adult, if the person applying for the retail dealer's license is less than twenty-three (23) years of age; in Indiana or any other state or country.

(d) A retail dealer's license shall permit the licensee to sell handguns at retail within ~~this state~~ **Indiana** subject to the conditions specified in this chapter. The license may be suspended or revoked in accordance with applicable law, and the licensee may be subject to punishment as provided in this chapter.

SECTION 3. IC 35-47-2-16.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16.3. (a) A person who:**

(1) is not a citizen of the United States; and

(2) desires to obtain:

(A) a license to carry a handgun under section 3 of this chapter; or

(B) a retail handgun dealer's license under section 15 of this chapter;

must submit the information described in subsection (b) to the appropriate law enforcement agency or superintendent.

(b) A person described in subsection (a) must submit the following information to the appropriate law enforcement agency or superintendent:

(1) Proof that the person is lawfully present in the United States.

(2) The following information from an embassy, a charge d'affaires, or a consul located in the United States that

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represents the foreign country in which the person is a citizen:

(A) The embassy's, charge d'affaires', or consul's attestation that the person does not have a criminal history in the foreign country or, if the person does have a criminal history in the foreign country, a certified copy of the person's criminal history.

(B) The embassy's, charge d'affaires', or consul's attestation that the person is otherwise a proper person under this chapter.

(3) Any other information required by the superintendent.

(c) Notwithstanding subsection (b)(2), the superintendent may issue a license under section 3 or 15 of this chapter to a person described in subsection (a) without receiving the attestation or certified copy of the person's criminal history described in subsection (b)(2)(A) or the attestation described in subsection (b)(2)(B) if:

(1) the person has been a resident of Indiana for at least two

(2) years; and

(2) the:

(A) person is a citizen of a foreign country that does not have an embassy, a charge d'affaires, or a consul located in the United States; or

(B) embassy, charge d'affaires, or consul fails to provide the criminal history or attestation described in subsection (b) within ninety (90) days after the date a request for the criminal history or attestation is submitted to the embassy, charge d'affaires, or consul.

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